

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARY COSGROVE,

Plaintiff,

v.

TAMIE WILLSON, *et al.*,

Defendants.

Case No. 17-11986

Honorable Laurie J. Michelson

Magistrate Judge Elizabeth A. Stafford

**ORDER ADOPTING REPORT AND RECOMMENDATION TO DISMISS
LAWSUIT WITH PREJUDICE FOR FAILURE TO PROSECUTE [23]**

Plaintiff Cary Cosgrove filed a *pro se* prisoner civil rights complaint in June 2017. (R. 1.) On December 7, 2017, Magistrate Judge Elizabeth Stafford enter a show cause order why the complaint should not be dismissed for failure to prosecute. (R. 21.) The Court received no response to the order.

Now before the Court is the Magistrate Judge's January 4, 2018, Report and Recommendation to dismiss the lawsuit with prejudice for failure to prosecute. (R. 23.) At the conclusion of her Report and Recommendation, Magistrate Judge Stafford notified the parties that they were required to file any objections within fourteen days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (R. 23, PID 262.) No objections have been filed.

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party

shall file objections with the district court or else waive right to appeal.” And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit’s waiver-of-appellate-review rule rested on the assumption “that the failure to object may constitute a procedural default waiving review even at the district court level.” 474 U.S. at 149; *see also Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at *8 (E.D. Mich. Apr. 16, 2012) (“The Court is not obligated to review the portions of the report to which no objection was made.” (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge’s Report and accepts her recommended disposition. It follows that this lawsuit is DISMISSED WITH PREJUDICE. As this order resolves this litigation, a separate judgment will issue.

SO ORDERED.

Dated: January 26, 2018

s/Laurie J. Michelson
LAURIE J. MICHELSON
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 26, 2018.

s/Keisha Jackson
Case Manager